IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 16916 of 2004

Between:

Gajula Madhav Durga Bhavani, W/o Gajula Manikayala Rao
r/o Penugonda, Penugonda Mandal, West Godavari District

..... PETITIONER

AND

1 The District Collector, West Godavari District, Eluru
2 The Revenue Divisional Officer, Kovvur, West Godavari District
3 The Mandal Revenue Officer, Penugonda, West Godavari District
4 The Penugonda Gram Panchayath, Penugonda, Penugonda Mandal, West Godavari District,
rep by Secretary.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the action of the Respondents in demolishing the buildings of testament petitioner bearing Assessment No. 4401 to 4403 in d. No. 1-1 and 4-15 situated at Gandhi road and Prakasam Road, penugonda Village, Penugonda Mandal, West Godavari District as illegal, arbitrary and violative of principles of natural justice and also violative of a Rt. 14, 16 and 300-A of Constitution of India and issue consequential direction to the respondents not to demolish the same.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondents 1 to 3: GP FOR REVENUE

Counsel for the Respondent No.4: None appeared

The Court at the admission stage made the following ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for respondent Nos.1 to 3. None appears for respondent No.4.

The gravamen of the complaint in this writ petition is that the respondents without following the due procedure as contemplated under the law and as directed by this Court, are proceeding for widening of the road and respondent
Nos.3 and 4 with their subordinates started laying identification marks on either side of the main road and internal roads from 18th September, 2004. In view of the same, the petitioner moved this Court by way of present writ petition contending that without following the due procedure and issuing notice to her, the respondents cannot proceed with the demolition of structures for the purpose of widening of 50 ft road.

The learned Government Pleader for Revenue appearing for respondent Nos.1 to 3 produced before this Court a letter addressed by the Mandal Revenue Officer, Penugonda, to his office and the same is placed on record, wherein, it is stated that a meeting with local public, who are going to be affected in removal of encroachments on the main road by the Revenue Divisional Officer, Kovvur, Sarpanch, Penugonda Gram Panchayath and officials of other Departments was held on
10-09-2004 and 35 people attended the said meeting and given their consent to remove their encroachments within 34 ft. width and the Survey Team measured

main road in the presence of the concerned building owners/representatives on behalf of the owners and marked 34 ft. width. Most of the encroachers/occupants voluntarily agreed to remove their encroachments up to the commitment i.e. within 34 ft. width. The minor part of the building corners and edges (i.e. Sun shades, projections, front elevations only) of the petitioners are being affected within one feet to one and half feet width only.

In view of the same, though the petitioner voluntarily agreed to remove the building corners and edges (i.e. Sun shades, projections, front elevations) etc., the respondents have to follow the due procedure even for removing the same by issuing necessary notice to the petitioner and if any persons voluntarily not agreed to remove the encroachments, it is open for the respondents to remove the same by following the due procedure.

The writ petition is accordingly disposed of. No costs.

28th SEPTEMBER, 2004.

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To

1 The District Collector, West Godavari District, Eluru
2 The Revenue Divisional Officer, Kovvur, West Godavari District
3 The Mandal Revenue Officer, Penugonda, West Godavari District
4 The Secretary, Penugonda Gram Panchayath, Penugonda,

Penugonda Mandal, West Godavari District.

5 2CCs to the G.P for Revenue, High Court Buildings, Hyderabad(O.U.T).

6 2CD copies.